

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRIAN MARTIN,

Plaintiff,

v.

JOHNSON CONTROLS FIRE  
PROTECTION, LP,

Defendant.

No. 2:19-cv-00514-RAJ

~~[PROPOSED]~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT

This matter comes before the Court on Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement. The Court has considered the motion together with the supporting declaration and exhibits and the record on file with the Court. For the reasons set forth below, the Court GRANTS the motion and preliminarily approves the parties' class-wide settlement.

**A. Standard of Review**

The Court must satisfy itself that the proposed class-wide settlement is fair, adequate, and reasonable to the class. Fed. R. Civ. P. 23(e); *see also Hanlon v. Chrysler*

1 *Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). In conducting such analysis, federal courts  
2 consider the following factors:

3 [T]he strength of the plaintiffs' case; the risk, expense,  
4 complexity, and likely duration of further litigation; the risk of  
5 maintaining class action status throughout the trial; the amount  
6 offered in settlement; the extent of discovery completed and  
7 the stage of the proceedings; the experience and views of  
8 counsel; the presence of a governmental participant; and the  
9 reaction of the class members to the proposed settlement.

10 *Hanlon*, 150 F.3d at 1026 (citing *Torrise v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375  
11 (9th Cir. 1993)). The courts also consider whether the settlement was the product of  
12 arms' length negotiations and whether there is any evidence of collusion among the  
13 parties. Fed. R. Civ. P. 23(e).

14 **B. The Court Preliminarily Approves the Proposed Settlement as Fair  
15 and Reasonable.**

16 Based on the Court's review of the instant motion and the parties' Settlement  
17 Agreement (Exhibit 1 to the Declaration of Adam J. Berger) together with its  
18 knowledge of the claims and defenses at issue in the case and the proceedings to date,  
19 the Court concludes that the terms of the parties' proposed settlement appear fair,  
20 reasonable, and adequate, were the product of arms' length negotiations, and do not  
21 evince any collusion between the parties. To that end, the Court ORDERS as follows:

22 1. The Court approves the form and content of the parties' proposed notice  
23 to the Class Members ("Notice") that is attached as Exhibit 2 to the Declaration of  
24 Adam J. Berger accompanying Plaintiff's motion.  
25  
26

1           2.     The Court approves appointment of ILYM Group as Settlement  
2 Administrator and preliminarily approves payment of their fees and costs, not to exceed  
3 \$15,000, from the Gross Settlement Fund created by the Settlement.  
4

5           3.     The Court concludes that the manner of giving notice satisfies Rule 23  
6 and the requirements of due process and, consistent with the terms of the parties'  
7 Settlement Agreement, the Court directs the Settlement Administrator to mail a copy  
8 of the Notice to each Class Member no later than thirty (30) calendar days following  
9 the date of this Order.  
10

11           4.     The Court finds and concludes that no second opt-out period is necessary  
12 for Class Members in this case. Therefore, all highlighted portions of the Notice that  
13 reference such opt-out period should be deleted prior to mailing.  
14

15           5.     On July 8, 2022, at 1:30 p.m., the Court will conduct a hearing ("Final  
16 Fairness Hearing") to determine whether to approve the settlement as fair, reasonable,  
17 and adequate, which, if so approved, will result in a dismissal and final judgment. The  
18 Final Fairness Hearing may, without further notice to the Class, be continued or  
19 adjourned by order of this Court.  
20

21           6.     The Court approves notifying the Class of Class Counsel's request for  
22 25% of the Gross Settlement Fund, or \$397,500, in attorneys' fees plus actual litigation  
23 costs of up to \$45,000, subject to final approval at the Final Fairness Hearing.  
24

25           7.     Subject to final approval at the Final Fairness Hearing, the Court  
26 approves the proposed incentive payment of \$20,000 to the Class Representative Brian

1 Martin in recognition of his time and efforts in this case, his service to the Class, and  
2 his grant of a general release to Defendant, and directs that the Class be notified of this  
3 award.  
4

5 8. Class Members may submit a written objection to any of the terms of the  
6 proposed settlement, by following the instructions as set forth in the Notice. Only Class  
7 Members who file a timely, written objection to the settlement will be permitted to  
8 appeal or seek review of this Court's decision approving or rejecting the settlement.  
9

10 9. The Court directs Class Counsel to submit a motion for final approval of  
11 the settlement, along with a proposed order approving the settlement, Class Counsel's  
12 fees and costs, and incentive payment to the Class Representative no later than seven  
13 (7) calendar days prior to the date of the Final Fairness Hearing. Such papers shall also  
14 inform the Court whether the mailing to Class Members was completed in accordance  
15 with the requirements of this Order, and provide information concerning any objections  
16 received as a result of such mailing.  
17

18 10. In the event the parties' proposed settlement does not become effective  
19 in accordance with the terms of the Settlement Agreement or is not finally approved by  
20 this Court, the Court shall vacate this order and reinstate all claims and defenses.  
21

22 IT IS SO ORDERED this 7th day of April, 2022.

23   
24

25 The Honorable Richard A. Jones  
26 United States District Judge